IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 694 OF 2004

Ramesh Namdeo Bhalerao,
Kolhapur Chief Promoter,
Proposed Kaiwari Aminkhan Aga
Jamadar Grahanirman Sanstha,
Kolhapur. ... Appellant

V/s

Shabaskhan Aminkhan Aaga Jamadar ... Respondent

Mr. P.D. Dalvi for the appellant.

CORAM: P.V. KAKADE, J.

DATED: 23RD JUNE, 2005

P.C.:

1. This appeal is preferred against the judgment and order passed by the Addl. District Judge, Kolhapur dated 15.12.2003 dismissing the appeal and confirming the order passed by the Civil Judge, Jr.Divn., Kolhapur, dismissing the suit for declaration and perpetual injunction against the defendant.

2. I have heard the learned counsel for the appellant. Perused the record.

Apparently, the suit is filed for declaration and perpetual injunction against the defendant who is the owner of the suit property. The plaintiff professes to be the Chief Promoter of Proposed Co-op. Housing Society and by virtue of such alleged status the suit is filed. However, it is clear from the record that there is no right, title and interest vested in the plaintiff in respect of the suit property nor he has lawful or otherwise settled possession over the suit property and, therefore, the suit for declaration and perpetual injunction filed by the plaintiff appears to be rightly dismissed by both the Courts below on the ground that the plaintiff had no locus-standi to file the suit against the defendant. It was further held that the plaintiff failed to establish that the defendant had made an illegal construction on the suit property and in view of this position the suit came to be dismissed by both the Courts below. I find no fault in the reasonings adopted and findings recorded by the learned lower appellate Court Judge. There is absolutely no substantial question of law involved in this appeal and as such the appeal deserves to be dismissed and stands dismissed with no order as to costs.

(P.V. Kakade, J.)